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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,890	09/29/2003	Paul Snyder	END920030094US1	8007

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EXAMINER
KAWSAR, ABDULLAH AL

ART UNIT	PAPER NUMBER
2195	

NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	10/671,890	SNYDER, PAUL
	Examiner	Art Unit	
	ABDULLAH AL KAWSAR	2195	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>10 November 2008</u>.
2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1 and 3-45</u> is/are pending in the application.
   4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) <u>1 and 3-45</u> is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☒ The drawing(s) filed on <u>29 September 2003</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.
   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
   a)☐ All   b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

1.   Claims 1, 3-45 are pending.

Claim Objections

2.   Claims 1, 3-25, 40-41 are objected to for a potential 101 rejection because of the

following informalities: Claims 1 and 19 recite a method comprising steps that may be

performed mentally and or manually by a human being. Thus the method neither <u>explicitly</u>

<u>recites</u> another statutory class of invention (i.e. a machine, a manufacture or a composition of

matter) nor <u>inherently requires</u> the use of a particular machine or apparatus. Accordingly, the

recited invention is nonstatutory subject matter.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed
> in the United States before the invention by the applicant for patent or (2) a patent granted on an application for
> patent by another filed in the United States before the invention by the applicant for patent, except that an
> international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this
> subsection of an application filed in the United States only if the international application designated the United
> States and was published under Article 21(2) of such treaty in the English language.

4.   Claims 1, 3-7, 15, 18-20, 22, 26, 28, 32, 33, 35 and 39 are rejected under 35

U.S.C. 102(e) as being anticipated by Maso et al.(Maso) US Patent Publication 2003/0061265.

5.   As per claim 1, Maso teaches the invention as claimed including a method for managing

a transaction processing system(par. 0082), the method comprising:

defining at least one criterion including a system level criterion, a transaction level

criterion, a multi-transactional level criterion and a workload characteristic(par. 0089, lines 1-5;

par. 0021, 0022, 0023);

defining at least one threshold metric for each of the at least one criterion (par. 0089,

lines 7-12);

defining at least one trigger action in response to the at least one threshold metric (par.

0036); and

performing the at least one trigger action in response to the at least one threshold metric

being met (par. 0097, lines 1-3).

6.   As per claim 3, Maso teaches defining at least one trigger action step includes defining at

least one of a system level trigger action and a transaction level trigger action (par. 0022; par.

0036).

7.   As per claim 4, Maso teaches at least one criterion includes at least one of a processor

utilization characteristic, memory utilization characteristic, an input/output characteristic, a

storage characteristic, and a network interface characteristic (par. 0125, lines 6-10).

8.   As per claim 5, Maso teaches defining at least one threshold metric includes defining at

least one of a single and a progressive variable relative to a measurement of an aspect of the

transaction processing system (par. 0052; par. 0128, lines 1-4).

9.   As per claim 6, Maso teaches including repeating each of the steps at predefined intervals (par. 0012, lines 13-15).

10.   As per claim 7, Maso teaches at least one trigger action includes at least one of changing the priority of a transaction, terminating a transaction, delaying a transaction, quiescing a transaction, causing another system to stop forwarding transactions, triggering routing of transactions to a different system, and ending a process(par. 00128, lines 4-8).

11.   As per claim 15, Maso teaches loading runtime parameters(par. 129, lines 1-8);

        validating the runtime parameters(par. 0130, lines 1-4); and

        terminating processing if the parameters are deemed unacceptable(par. 0130, lines 4-5).

12.   As per claim 18, Maso teaches comprising collecting data on the status of the transaction processing system, wherein the collecting is performed by one of executable collection logic and interpretable definitions (par. 0142).

13.   As per claim 19, Maso teaches the invention as claimed including a method of managing a system, comprising the steps of:

        determining current conditions of a workload characteristic (par. 0089, lines 1-7);

        evaluating the current conditions of the workload characteristic (par. 0089; lines 7-12; par 0097, lines 1-7) and

dynamically adjusting system administration criteria based on a threshold metric

associated with the current conditions of the workload characteristic (par. 0089; 0097).

14.   As per claim 20, Maso teaches the workload characteristic is at least one of a transaction

workload characteristic and a system environment workload characteristic (par. 0022).

15.   As per claim 22, it has similar limitations as of 7 above. Therefore it is rejected under the

same rational as of claim 7 above.

16.   As per claim 26, Maso teaches the invention as claimed including a system for managing

a transaction processing system(par. 0082), the system comprising:

        a means for defining at least one criterion, wherein the at least one criterion is a workload

characteristic of the transaction processing system(par. 0089, lines 1-5);

        a means for defining at least one threshold metric for each of the at least one criterion

(par. 0089, lines 7-12); and

        a means for defining at least one trigger action in response to the at least one threshold

metric (par. 0036).

17.   As per claims 28, it has similar limitations as of claim 15 above. Therefore it is rejected

under the same rational as of claim 15 above.

18.   As per claims 32, 33 and 35, they have similar limitations as of claim 19, 20 and 7 above.

Therefore they are rejected under the same rational as of claim 19, 20 and 7 above.

19.   As per claim 39, it has similar limitations as of claim 1 above. Therefore it is rejected

under the same rational as of claim 1 above.

Claim Rejections - 35 USC § 103

20.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

21.   Claims 8-14, 16, 17, 21, 23-25, 27, 29-31, 34, 36-38 and 40-45 rejected under 35 U.S.C.

103(a) as being unpatentable over Maso et al.(Maso) US Patent Publication 2003/0061265, in

view of Fraenkel et al.(Fraenkel) US Patent No. 6738933.

22.   As per claim 8, Maso does not specifically disclose Fraenkel teaches defining at least one

transaction identifier that identifies subsets of transactions; and defining at least one transaction

level threshold metric associated with the at least one transaction identifier.

However, Fraenkel teaches defining at least one transaction identifier that identifies

subsets of transactions (col 12, lines 36-45); and

defining at least one transaction level threshold metric associated with the at least one

transaction identifier (col 18, table 1, "transactions", lines 22-25).

23.   It would have been obvious to a person of ordinary skill in art at the time of invention

was made to incorporate the teaching of Fraenkel into the method of Maso to have identification

of the transaction with the threshold metrics. The modification would have been obvious because

one of the ordinary skills of the art would identify the transaction that are being monitored with

transaction ID and define the threshold metrics with the transaction to be able to resolve

transaction or system failure without having any significant delay.

24.   As per claim 9, Fraenkel teaches performing step performs the at least one trigger action

on a transaction associated with the at least one transaction identifier (col 18, table 1, "Alarms",

lines 37-40).

25.   As per claim 10, Fraenkel teaches performing step performs when the at least one

transaction level threshold metric is met (col 11, lines 50-66).

26.   As per claim 11, Fraenkel teaches defining a system level threshold metric(col 26, table

2); and

        associating the system level threshold metric with the at least one transaction identifier

and with the at least one transaction level threshold metric (col 4, lines 54-62; figure 22, 23, 24;

col 18, table 1; col 21, lines 17-57; col 25, lines 21- 67 through col 26, lines 1-9; col 28, lines 8-

19).

27.   As per claim 12, Fraenkel teaches the performing step is only performed when both the system level threshold metric and the transaction level threshold metric are met (col 25, lines 45-67 through col 26, lines 1-2; col 46, lines 5-11).

28.   As per claim 13, Fraenkel teaches defining at least one transaction identifier includes defining a transaction group identifier (col 12, lines 36-45).

29.   As per claim 14, Fraenkel teaches defining at least one threshold metric defines a transaction group level metric (col 15, lines 6-11).

30.   As per claim 16, Fraenkel teaches acquiring a transaction list of currently executing transactions (figure 16, col 17, lines 20-23);

        collecting details for each of the currently executing transactions(figure 16; col 29, lines 2-8) ;

        evaluating transaction details against an interval criterion matrix which defines thresholds associated with the currently executing transactions (col 17, lines 26-30; col 29, lines 8-14); and

        performing actions when the evaluation step determines a threshold has been met(col 11, lines 2-13).

31.   As per claim 17, Fraenkel teaches acquiring a list of aggregate transaction groups (col 3, lines 24-40; col 4, lines 54-60);

        collecting details for each aggregate transaction group (col 4, lines 50-54);

evaluating each aggregated transaction group details against an interval criterion matrix
which defines thresholds associated with each aggregated transaction group (col 4, lines 54-60;
col 31, lines 55-62); and

performing actions when the evaluation step determines a threshold has been met (col 11,
lines 2-13).

32.   As per claim 21, Fraenkel teaches the workload characteristic is a transaction processing
system characteristic (abstract, lines 3-7).

33.   As per claim 23, it has similar limitations of combinations of claims 8 and 11 above.
Therefore it is rejected under the same rational as of combination of claims 8 and 11 above.

34.   As per claim 24 and 25, they have similar limitations as of claims 12 and 10 above.
Therefore they are rejected under the same rational as or claims 12 and 10 above.

35.   As per claim 27 and 29, they have similar limitations as of claims 23 and 16 above.
Therefore it is rejected under the same rational as of claims 23 and 16 above.

36.   As per claim 30, Fraenkel teaches a criterion matrix, wherein the criterion matrix
comprises:

a system level metric entry that provides a system level threshold for a system level
workload characteristic(col 26, table 2);

a transaction identifier entry that provides an identification for one of a transaction and a

transaction group(col 12, lines 36-45);

a transaction level metric entry that provides a transaction level threshold for transaction

type defined by the transaction identifier(col 18, table 1, "transactions", lines 22-25); and

a facility action entry for identifying logic to be executed if at least one of the system

level threshold and the transaction level threshold is met (col 46, lines 5-23).

37.   As per claim 31, Fraenkel teaches a means for performing the at least one trigger action

in response to the at least one threshold metric being met (col 11, lines 2-13).

38.   As per claim 34, 37 and 38, they have similar limitations as of claims 21, 12 and 10

above. Therefore they are rejected under the same rational as or claims 21, 12 and 10 above.

39.   As per claim 36, it has similar limitations of combinations of claims 8 and 11 above.

Therefore it is rejected under the same rational as of combination of claims 8 and 11 above.

40.   As per claim 40, Fraenkel teaches wherein the workload characteristic is in a pre-

provided list of characteristics configured to be assessed by a facility (col 18, lines 48-53).

41.   As per claim 41, Fraenkel teaches wherein each aggregated transaction group is built and

administered by an administrator (col 13, lines 55-65).

42.   As per claim 42, Fraenkel teaches wherein each aggregated transaction group is pre-built

and obtained from an electronic source (col 12, lines 5-35).

43.   As per claim 43, Fraenkel teaches wherein the system level criterion is dynamically

evaluated based upon system-level health characteristics (col 4, lines 46-62; col 5, lines 10-27;

col 21, lines 17-57).

44.   As per claim 44, Fraenkel teaches wherein the transactional level criterion is dynamically

evaluated based upon transaction-specific characteristics (col 4, lines 46-62; col 5, lines 10-27;

col 16, lines 23-30).

45.   As per claim 45, Fraenkel teaches wherein the multi-transactional level criterion is

dynamically evaluated based upon transaction-specific characteristics (col 4, lines 46-62; col 5,

lines 10-27; col 16, lines 23-30; col 17, table 1; figure 16).

Response to Arguments

46.   Applicant's arguments filed 11/10/2008 have been fully considered but they are not

persuasive.

47.   In the remarks applicant argues:

        (1) Improper rejection of claims 19 and 32.

(2) Maso fails to teach "a system level criterion, a transaction level criterion, multi

transaction level criterion **and** a workload characteristic".

(3) Maso fails to teach "dynamically adjusting system administration criteria based on a

threshold metric associated with the current conditions of the workload characteristic".

(4) Fraenkel fails to teach "acquiring a transaction list of currently executing transaction".

48.   Examiner respectfully disagree with applicant:

i.   As to point (1), applicant supports his argument mentioning that examiner fails to

consider specific features of claim 19 and 32 that are different than claim 1. Examiner

respectfully disagrees with the applicant. Applicant argues that the features of claim 19

and 32 were not covered by the rejection of claim 1 thus "a clear issue was not developed

between the examiner and applicant" but in remarks page 15-16 applicant argues that

cited portion of Maso for claim 1 fails to teach "dynamically adjusting system

administration criteria based on a threshold metric associated with the current conditions

of the workload characteristic" which is a limitation from claim 19 and 32. Examiner

fails to understand how applicant can argue limitations of a claim where a clear issue has

not been developed between the examiner and the applicant. Accordingly from

applicant's argument and understanding it shows intrinsic evidence that a clear issue has

been developed as applicant is able to understand the rejection and present argument

based on the rejection.

ii.   As to point (2), applicant supports his argument mentioning that Maso teaches "instrument system performance matrices, including SNMP statistics, Windows 2000/NT, Perfmon matrices." but fails to teach "a system level criterion, a transaction level criterion, multi transaction level criterion **and** a workload characteristic". Examiner respectfully disagrees with the applicant. The claimed limitation is broad and does not specifically disclose in terms of what is included and excluded in the "a system level criterion", "a transaction level criterion", "multi transaction level criterion" and "a workload characteristic". There is no specific definition provided in the specification for any of those terms for limiting those terms to any specific metrics. Also the claim language does not limit the claim to include all the criterion as the claim recites "**at least one** criterion including a system level criterion, a transaction level criterion, multi transaction level criterion and a workload characteristic".

iii.   As to point (3), applicant argues that Maso allows administrator to set threshold to response only when a prescribed threshold is reached. As the administrator sets the threshold it's not dynamic. Examiner respectfully disagrees with the applicant. "Dynamically adjusting the threshold" does not mean an administrator cannot adjust the threshold and unable to make changes in the threshold level. Maso teaches an administrator sets the threshold matrices based of the system performance evaluation and does the modification accordingly and also sets appropriate response when prescribed threshold has been reached (par, 0089 and par. 0097). Maso also teaches that the configuration may be modified in real-time (par. 0020).

iv.   As to point (4), applicant argues that Fraenkel fails to teach collected data is of

currently executing transactions. Examiner respectfully disagrees with the applicant.

Fraenkel teaches monitoring transaction data and collecting them. In figure 16 of

Fraenkel shows collecting data for transaction executing "today" for each hour of the day

which shows the transactions currently executing.

Conclusion

49.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

50.   A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

51.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to ABDULLAH AL KAWSAR whose telephone number is

(571)270-3169. The examiner can normally be reached on 7:30am to 5:00pm, EST.

52.   If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Meng Ai T. An can be reached on 571-272-3756. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

53.   Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/VAN H NGUYEN/   /Abdullah-Al Kawsar/
Primary Examiner, Art Unit 2194   Abdullah-Al Kawsar